
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 97 (revised 9-23-2005)

DECLARATION OF A STATE OF EMERGENCY IN SUPPORT OF THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT TO RESPOND TO THE IMPACT OF HURRICANE KATRINA AND HURRICANE RITA

On September 23, 2005, I am expanding the state of emergency declared on August 31, 2005 for Hurricane Katrina to include support for states impacted by Hurricane Rita. Through the Emergency Management Assistance Compact, of which the Commonwealth of Virginia is a member, and in accordance with § 44-146.28:1, the Commonwealth will provide resources and assistance to the fullest extent possible to the impacted states, and will directly assist evacuees who arrive in Virginia from the states that have suffered from either or both of these devastating storms.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued August 31, 2005, wherein I proclaimed that a state of emergency exists and directed that appropriate assistance be rendered by agencies of the state government to respond to needs in the impacted states to alleviate adverse conditions created by the hurricane. Pursuant to § 44-75.1.A.3 and A.4 of the *Code of Virginia*, I directed that the Virginia National Guard be called forth to state duty to assist in providing such aid. This shall include such functions as the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following measures:

- A. The limited implementation by agencies of the state and local governments of Volume 1 (Basic Plan) and Volume 2 (Disaster Recovery Plan) of the Virginia Emergency Operations Plan, as amended, along with other appropriate state agency plans.
- B. Limited activation of the Virginia Emergency Operations Center (VEOC) and Virginia Emergency Response Team (VERT) to coordinate the provision of assistance to the impacted states. I am directing that the VEOC and VERT coordinate state operations in support of the EMAC agreement, other mission assignments to agencies designated in the Commonwealth of Virginia Emergency Operations Plan (COVEOP) and other measures that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide assistance for the preservation of life, protection of property, and implementation of recovery activities.
- C. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §§ 44-146.17(5) and 44-146.28:1 of the *Code of Virginia* to provide for the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the *Code of Virginia*.
- D. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, overwidth, registration, or license exemptions to all carriers transporting essential commodities in and through any area of the Commonwealth in order to support the emergency conditions, regardless of their point of origin or destination.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle

24,000 Pounds

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| Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers) | 44,000 Pounds |
| Single Unit (2 Axles) | 44,000 Pounds |
| Single Unit (3 Axles) | 54,500 Pounds |
| Tractor-Semitrailer (4 Axles) | 64,500 Pounds |
| Tractor-Semitrailer (5 or more Axles) | 90,000 Pounds |
| Tractor-Twin Trailers (5 or more Axles) | 90,000 Pounds |
| Other Combinations (5 or more Axles) | 90,000 Pounds |
| Per Inch of Tire Width in Contact with Road Surface | 850 Pounds |

All overwidth loads, up to a maximum of 14 feet, must follow Virginia Department of Transportation (VDOT) hauling permit and safety guidelines.

In addition to described overweight/overwidth transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles en route and returning to their home base. The above-cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the *Code of Virginia*.

The foregoing overweight/overwidth transportation privileges, as well as the regulatory exemption provided by § 52-8.4.A of the *Code of Virginia* and implemented in § 19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for 30 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

- E. The discontinuance of provisions authorized in paragraph D above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.
- F. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the *Code of Virginia*, Statewide Emergency Medical Services System and Services, and

exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

- G. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28 (b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies.
- H. The temporary waiver by the Department of Agriculture and Consumer Services, and all other applicable state and local agencies, of enforcement of the provisions of § 3.1-949 of the *Code of Virginia* for retailers of petroleum products whose pumps are too antiquated to display accurately the current price of petroleum products. This limited waiver shall be effective for a period of 90 days from the effective date of this executive order and shall apply only to retailers whose pumps are mechanically unable to display accurately the current price of petroleum products due to the age and design of the pump.

The Commissioner, in consultation with the Secretary of Agriculture and Forestry, shall forthwith develop and issue guidelines allowing such retailers to use a "half pricing" technique for the sale of petroleum products. Any such retailer shall be required to display the actual price of the petroleum product on any applicable signage or advertisements in accordance with these guidelines. The Commissioner and Secretary shall consult with affected stakeholders in the development of such guidelines and shall make available appropriate technical assistance to affected retailers as well as appropriate consumer education.

- I. Designation of members and personnel of volunteer, auxiliary and reserve groups including Search and Rescue (SAR), Virginia Association of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters, and others identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of §44-146.23 (a) of the *Code of Virginia*, in the performance of their specific disaster-related mission assignments.

- J. I hereby authorize the Superintendent of Public Instruction to issue such guidance to local school divisions as may be necessary to facilitate enrollment of students displaced by Hurricane Katrina or Hurricane Rita.
- K. The temporary waiver, for the period that the applicable waiver from the federal government is in effect, of enforcement by the Department of Motor Vehicles and other applicable agencies of the prohibition on use of dyed fuel for on-road use. Nothing in this provision shall change any tax liability due from any person or entity.
- L. The temporary waiver, for a period of 90 days, of the enforcement by the Board of Pharmacy of statutory and regulatory provisions which, in the judgment of the Director of the Department of Health Professions, impede the ability of Virginia pharmacies to provide assistance to patients who have been displaced by the effects of Hurricane Katrina or Hurricane Rita.
- M. The following conditions apply to the deployment of the Virginia National Guard:
 - 1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in alleviating the human suffering and damage to property.
 - 2. Pursuant to § 52-6 of the *Code of Virginia*, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by §52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth.
 - 3. In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by § 44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:
 - (a) Workers Compensation benefits provided to members of the National Guard by the Virginia Workers Compensation Act, subject to the requirements and limitations thereof; and, in addition,
 - (b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers Compensation Act during the same month. If and when the time period for payment of Workers Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the *Code of Virginia*, and subject to the availability of future appropriations that may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.
 5. The costs incurred by the Department of Military Affairs in performing these missions shall be paid from state funds.
- N. The activation of the statutory provisions in § 59.1-525 *et. seq.* of the *Code of Virginia* related to price gouging. Price gouging at any time is unacceptable. Price gouging is even more reprehensible after a natural disaster. I have directed all applicable executive branch agencies to take immediate action to address any verified reports of price gouging of necessary goods or services. I make the same request of the Office of the Attorney General and appropriate local officials.
- O. I hereby authorize the heads of executive branch agencies, acting when appropriate on behalf of their regulatory boards, to waive any state requirement or regulation for which the federal government has issued a waiver of the corresponding federal or state regulation based on the impact of Hurricane Katrina or Hurricane Rita.

- P. I hereby authorize the presidents of colleges and universities in the Commonwealth to waive the requirements of any state law or regulation for good cause to facilitate enrollment of students displaced by Hurricane Katrina or Hurricane Rita.
- Q. A state of emergency exists for the Commonwealth in support of the proper management, care and support of persons who have been displaced by Hurricane Katrina or Hurricane Rita, evacuated from states impacted by Hurricane Katrina or Hurricane Rita, and relocated to the Commonwealth (Evacuees). These evacuees will require a variety of emergency services including, but not limited to health and medical care, social services, transportation and security services. I hereby order the following measures:
1. Designation of physicians, nurses, and other licensed and non-licensed health care providers and other individuals as well as hospitals, nursing facilities and other licensed and non-licensed health care organizations, political subdivisions and other private entities by agencies of the Commonwealth, including but not limited to the Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Emergency Management, Department of Transportation, Department of State Police, Department of Motor Vehicles, and Department of Social Services, as representatives of the Commonwealth engaged in emergency services activities, at sites designated by the Commonwealth, within the meaning of the immunity provisions of §44-146.23 (a) of the Code of Virginia, in the performance of their disaster-related mission assignments.
 2. During the next 120 days, the Director of the Department of Health Professions shall issue temporary licenses, registrations, and certifications to practice in the Commonwealth, for a period not to exceed one year, to qualified health care practitioners who are displaced residents of Hurricane Katrina or Rita-affected states, who hold like unrestricted licenses, registrations, or certifications in their resident states, and who may be unable to furnish or have furnished on their behalf complete documentation of their credentials and license status as otherwise required by Virginia law or regulation. The Director shall also have authority to defer the payment of licensing fees. Any license, registration or certification so issued may be revoked by for cause without a hearing by the Director.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the *Code of Virginia*, other than costs defined in Item 5 of the paragraphs above pertaining to the Virginia National Guard, in performing these

missions shall be paid from state funds. In addition, up to \$50,000 shall be made available for operation of the Emergency Operation Center.

This Executive Order shall be effective August 31, 2005, and shall remain in full force and effect until June 30, 2006, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 23rd day of September 2005.

Mark R. Warner, Governor

Attest:

Secretary of the Commonwealth